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In the High Court of Punjab & Haryana at Chandigarh.

Date of decision : 1.9.2006.

Inderjit Singh .. Appellant.

vs

Janam Singh and others ... Respondents.

Coram Hon'ble Ms. Justice Kiran Anand Lall.

Present: Mr.Manoj Bajaj,Advocate,for the appellant.
Mr.Sachin Mittal,Advocate,for the respondents.

Kiran Anand Lall, J.

Mehkar Singh was the owner of suit land. He sold it to respondents no.1 to 4 vide registered sale-deed dated 29.5.1984, Ex.DW1/A. The appellant who is his son was minor at that time. He filed a reversionary suit through his mother as his next friend, challenging the sale. It was pleaded that the land was ancestral in the hands of Mehkar Singh qua the appellant and he had sold it to respondents no.1 to 4, without consideration and without legal necessity. The sale was, therefore, alleged to be illegal and not binding on the rights of the appellant who constituted a joint Hindu family with Mehkar Singh. During pendency of the suit, the appellant attained majority, and Mehkar Singh also died. The plaint was, therefore, amended, and legal heirs of Mehkar Singh were brought on record as respondents no.5 (i) to 5 (v). Besides, relief of possession was claimed, in place of that of declaration.

Respondents no.1 to 4 contested the suit, denying the claim of the appellant. According to them, they had paid a sum of Rs.49,000/- to

Mehkar Singh, as the sale consideration. They had satisfied themselves that Mehkar Singh had the legal necessity to sell the land. A sum of Rs.15,000/- was paid as earnest amount to him on 5.7.1983 at the time of execution of the agreement to sell by him. Mehkar Singh owed heavy loans, including a loan of Rs.5000/- to one Khushal Singh. He had also spent a sum of Rs.30,000/- on the marriage of his daughter, Sharda, and an equal amount, on the marriage of his son, Hans Raj.

After trial, the trial court found that the land was ancestral in the hands of Mehkar Singh, qua the appellant. It also further found that the sale was effected for legal necessity and consideration, and was, as such, valid. It further found that Mehkar Singh was to pay off heavy loans and was also to solemnise the marriages of his daughter, Sharda, and son, Hans Raj. It was further found that he paid back loan amount of Rs.11,148.70 to the Primary Land Development Bank, on 29.5.1984 (Re.Ex.DW5/1) and Rs.2064/- to the Cooperative Society, Dayalpur, on 21.5.1984. He had performed the marriage of his daughter, Sharda, in the year 1984, by spending approximately Rs.30,000/-, and had further spent an equal amount on the marriage of his son, Hans Raj. Holding that the impugned sale was effected by Mehkar Singh for legal necessity and also for consideration, the trial court dismissed the suit.

The findings of fact regarding the legal necessity for effecting the sale and also in respect of the receipt of sale consideration by Mehkar Singh from respondents no.1 to 4, were confirmed by the first appellate court, also. In the regular second appeal in hand, this court cannot go into the correctness or otherwise of these findings of fact recorded by the courts below, on the basis of well discussed evidence appearing on record.

Since learned counsel for the appellant could not point out any

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substantial question of law arising in this appeal for determination, the appeal shall stand dismissed.

1.9.2006. (Kiran Anand Lall)
vs. Judge.